

**REMARKS**

Applicants' undersigned attorney thanks the Examiner for his comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-35 are pending.

**Amendment to the Claims**

Claims 1-35 have been examined, with no claims being allowed. Applicants have amended Claims 1 and 14 to include the limitations of the side-panel-pushing and stacker-finger-unit-distance-adjusting steps occurring while maintaining the garment against the fingers of the two stacker finger units. Support for these limitations is provided in the specification, for example at page 24, line 19 – page 25, line 17.

No new matter has been added by this Amendment. No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

**Claim Rejections - 35 U.S.C. §103**

The rejection of Claims 1-35 under 35 U.S.C. §103(a) as being unpatentable over the admitted prior art in view of Japanese Patent 9-131,364 (hereinafter "Japanese Patent '364") and Westphal et al. (U.S. Patent No. 4,739,910) is respectfully traversed, particularly in view of the above Amendment and the following remarks.

The Examiner's explanation of this rejection is the same as Examiner Aftergut's rejection in an Office Action mailed 16 July 2003 for U.S. Patent Application Serial No. 09/966,793. The claims in the '793 application are directed to a method that uses one or more vacuum conveyors. In contrast, the method of the present application uses a vacuum applied through stacker finger units. In further contrast, the "admitted prior art" differs between the '793 application and the present application.

Contrary to the Examiner's assertion, the "admitted prior art" of the present application does not suggest that it was known at the time the invention was made to tuck and fold disposable undergarments with refastenable side seam fasteners along the side seams for packaging purposes. Additionally, the admitted prior art does not suggest that one skilled in the art was well aware of the use of air bars in place of mechanical rotating blades for tucking side seams inward as a product is being conveyed. Furthermore, the admitted prior art does not suggest that it was known to employ vacuum while conveying products, or that the amount of vacuum applied may not be sufficient to retain the sides of the product and that creasing in undesirable locales may result in the finished assembly. In fact, the present application does not disclose or suggest any use of a vacuum conveyor per se.

As stated in the present application at page 3, lines 19-20, in view of the admitted prior art, there is a need or desire for a method of tucking side panels in which the degree, or depth, of tucking can be controlled. Applicants' Claims 1-35 provide such a method.

The admitted prior art lacks the ability to control the tucking depth of side panels in a garment. Instead, the side panels are typically tucked completely inside the garment. Consequently, the consumer's view of the side panels may be completely obscured prior to purchasing the garment. Additionally, heat-activated material that is completely tucked within the garment may be inconsistently heated, thus inconsistently activated, thereby resulting in an inconsistent fit.

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

Neither Japanese Patent '364 nor Westphal et al. discloses or suggests a process for tucking side seams into a garment using a vacuum applied through stacker finger units, and increasing and decreasing distances between stacker finger units. As explained in the present application, benefits can be derived from a method in which the tucking depth of side panels within a garment is controlled.

One technique for tucking side panels into a garment while simultaneously controlling the depth of the tuck involves using a vacuum applied through stacker finger units, and increasing and decreasing distances between stacker finger units, as recited in Applicants' Claims 1 and 14. Apparatus for carrying out such a method is recited in Applicants' Claim 28.

Japanese Patent '364 discloses a device and method for folding a pants type disposable diaper wherein a pants type disposable diaper is positioned between upper and lower conveyor belts. Japanese Patent '364 discusses the drawbacks of vacuum devices in folding methods, thereby teaching away from the use of a vacuum applied through stacker fingers. Thus, in Japanese Patent '364, in lieu of vacuum devices, the upper and lower conveyor belts have a surface covered in Velcro®-type material that becomes entangled with the nonwoven fabric fiber of the disposable diaper to hold the disposable diaper in place during a tucking operation (paragraphs 14 and 25).

Japanese Patent '364 fails to disclose or suggest a process or apparatus in which two stacker finger units having vacuum suction are used to maintain a garment therebetween while increasing and decreasing a distance between the two stacker finger units, and while pushing the side panels into the garment a distance toward one another. Additionally, Japanese Patent '364 fails to disclose or suggest such a process wherein the distance in which the side panels are pushed into the garment can be adjusted. Furthermore, Japanese Patent '364 fails to disclose or suggest such a process that includes step-wise pushing of the side panels into the garment. Japanese Patent '364 further fails to disclose or suggest such a process that also includes a heat-activating step.

Westphal et al. also fail to disclose or suggest a process or apparatus in which two stacker finger units having vacuum suction are used to maintain a garment therebetween while increasing and decreasing a distance between the two stacker finger units, and while pushing the side panels into the garment a distance toward one another. Instead, in the method of Westphal et al., a pant garment is conveyed sideways between a pair of conveyor belt assemblies each in combination with a suction system, and the tucking takes place *after* the garment leaves the suction zones.

Furthermore, in the method of Westphal et al., garments proceed along the conveyor assemblies with the garments arranged perpendicular to the direction in which the garments in Japanese Patent '364 proceed along a conveyor. Because the garments in Westphal et al. are in a completely different orientation than the garments in Japanese Patent '364, the steps and limitations of the inventions necessarily differ from one another. Thus, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings.

The only specific example in Japanese Patent '364 of a folding process using a vacuum device is that of the Westphal patent (paragraph 3). Thus, Japanese Patent '364 is essentially a combination of the two references, yet the Japanese Patent '364 reference fails to disclose or suggest Applicants' claimed invention. More particularly, Japanese Patent '364 explicitly teaches away from the use of the vacuum devices of Westphal et al., thereby reinforcing the unlikelihood of a person skilled in the art being motivated to combine the teachings of Japanese Patent '364 and Westphal et al.

Because each of the cited references fails to disclose or suggest a process or apparatus in which two stacker finger units having vacuum suction are used to maintain a garment therebetween while increasing and decreasing a distance between the two stacker finger units, and while pushing the side panels into the garment a distance toward one another, there is no suggestion or motivation to modify and/or combine the teachings of any of these references to achieve Applicants' claimed invention.

For at least the reasons given above, Applicants respectfully submit that the teachings of the admitted prior art in view of Japanese Patent '364 and Westphal et al. fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

**Conclusion**

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



Melanie J. Rauch  
Registration No. 40,924

Pauley Petersen & Erickson  
2800 West Higgins Road, Suite 365  
Hoffman Estates, Illinois 60195  
(847) 490-1400  
FAX (847) 490-1403